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**To:** Alibaba Group Holding Limited ([trademarks@fenwick.com](mailto:trademarks@fenwick.com))  
**Subject:** U.S. TRADEMARK APPLICATION NO. 77684162 - LIBRA CAPITAL  
MANAGEMENT - 22002-00070  
**Sent:** 8/20/2010 2:48:38 PM  
**Sent As:** ECOM110@USPTO.GOV  
**Attachments:**

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**UNITED STATES PATENT AND TRADEMARK OFFICE**

**SERIAL NO:** 77/684162

**MARK:** LIBRA CAPITAL MANAGEMENT

**\*77684162\***

**CORRESPONDENT ADDRESS:**

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FENWICK & WEST LLP  
801 CALIFORNIA ST  
MOUNTAIN VIEW, CA 94041-1990

**GENERAL TRADEMARK INFORMATION:**  
<http://www.uspto.gov/main/trademarks.htm>

**APPLICANT:** Alibaba Group Holding  
Limited

**CORRESPONDENT'S REFERENCE/DOCKET**

**NO:**  
22002-00070

**CORRESPONDENT E-MAIL ADDRESS:**  
[trademarks@fenwick.com](mailto:trademarks@fenwick.com)

**REQUEST FOR RECONSIDERATION DENIED**

**ISSUE/MAILING DATE:** 8/20/2010

Applicant is requesting reconsideration of a final refusal issued/mailed December 24, 2009.

After careful consideration of the law and facts of the case, the examining attorney must deny the request for reconsideration and adhere to the final action as written since no new facts or reasons have been presented that are significant and compelling with regard to the point at issue.

While it is true that marks must be compared in their entireties, it is also true that certain portions of marks

are accorded greater weight in determining likelihood of confusion. The presence of the stylization and the additional wording "capital management" in the applicant's mark does not adequately distinguish the marks because it does not alter the mark's meaning or commercial impression. Instead, the wording "capital management" simply reinforces that the applicant, like the registrants, offers financial management services. The stylization does not alter the mark's meaning or commercial impression.

Applicant notes that there are at least seven entities using marks containing the term "LIBRA" in the field of finance in the United States.

The applicant has attached three such registrations as evidence. This evidence is unpersuasive because, while the services listed in those registrations all broadly fall into the "financial" field, the registrations are each for different services. Insurance services, credit card services, and appraisal of real estate are all distinct services that are sold in different trade channels to different customers. That is why those three marks are able to coexist, and that is why those marks were not cited against the applicant's mark. Conversely, the cited registrations include services that overlap directly with the applicant's services.

The four cited marks are able to coexist with one another because three of the marks are owned by the same registrant. The only reason the 2954003 mark is able to coexist with the other three cited marks is that the parties entered into a coexistence and consent agreement. Absent that agreement, a Section 2(d) refusal likely would have been issued, preventing registration of the 2996293, 2996294, and 3390496 marks.

Applicant's argument that customers for financial services exercise a high degree of care is misplaced. While customers of hedge funds may be extremely knowledgeable, the applicant's recitation of services includes many other financial services, including investment advice, investment consultation, investment of funds for others, and brokerage services. These are all services that cater to the general public, including unsophisticated investors looking for financial advice or basic brokerage services. These investors are likely to be confused due to the identical nature of the marks and services at issue.

Accordingly, applicant's request for reconsideration is *denied*. The time for appeal runs from the date the final action was issued/mailed. 37 C.F.R. Section 2.64(b); TMEP Section 715.03(c). If applicant has already filed a timely notice of appeal, the application will be forwarded to the Trademark Trial and Appeal Board (TTAB).

/Aaron Brodsky/  
Examining Attorney  
Law Office 110  
Phone - (571)-272-1690

**STATUS CHECK:** Check the status of the application at least once every six months from the initial filing date using the USPTO Trademark Applications and Registrations Retrieval (TARR) online system at <http://tarr.uspto.gov>. When conducting an online status check, print and maintain a copy of the complete TARR screen. If the status of your application has not changed for more than six months, please contact the assigned examining attorney.

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**Subject:** U.S. TRADEMARK APPLICATION NO. 77684162 - LIBRA CAPITAL MANAGEMENT - 22002-00070  
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**IMPORTANT NOTICE REGARDING YOUR TRADEMARK APPLICATION**

**Your trademark application (Serial No. 77684162) has been reviewed. The examining attorney assigned by the United States Patent and Trademark Office ("USPTO") has written a letter (an "Office action") on 8/20/2010 to which you must respond (*unless the Office letter specifically states that no response is required*). Please follow these steps:**

1. Read the Office letter by clicking on this [link](http://tmportal.uspto.gov/external/portal/tow?DDA=Y&serial_number=77684162&doc_type=REC&)  
[http://tmportal.uspto.gov/external/portal/tow?DDA=Y&serial\\_number=77684162&doc\\_type=REC&](http://tmportal.uspto.gov/external/portal/tow?DDA=Y&serial_number=77684162&doc_type=REC&)  
**OR** go to <http://tmportal.uspto.gov/external/portal/tow> and enter your serial number to access the Office letter. If you have difficulty accessing the Office letter, contact [TDR@uspto.gov](mailto:TDR@uspto.gov).

**PLEASE NOTE:** The Office letter may not be immediately available but will be viewable within 24 hours of this e-mail notification.

2. Contact the examining attorney who reviewed your application if you have any questions about the content of the Office letter (contact information appears at the end thereof).

3. Respond within 6 months, calculated from 8/20/2010 (*or sooner if specified in the Office letter*), using the Trademark Electronic Application System (TEAS) [Response to Office Action form](#). If you have difficulty using TEAS, contact [TEAS@uspto.gov](mailto:TEAS@uspto.gov).

**ALERT:**

**Failure to file any required response by the applicable deadline will result in the ABANDONMENT (loss) of your application.**

**Do NOT hit "Reply" to this e-mail notification, or otherwise attempt to e-mail your response, as the USPTO does NOT accept e-mailed responses.**